

DD/M&S Registry
File Speeches

Assistant to the Director
Mr. Thuermer

[Redacted]

Per your telecon with Bob Wattles on
11/28/73, attached is the text of the
address prepared by OTR [Redacted] for
the Director to deliver to an NSA
audience in early November.

[Redacted]

LDP

Att

Executive Officer to the DD/M&S

[Redacted]

[Redacted]

30 Nov 73

EO-DD/M&S: [Redacted] kmg (30 Nov 73)

Distribution:

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Att: DCI speech to NSA on 9 Nov 73 re "Secrecy and Security in an Open Society"

MEMORANDUM FOR: Director of Central Intelligence
Bill:

Attached per your request of 2 November are some thoughts for your talk at NSA on Friday. OGC drafted the material on the Marchetti Case. Also attached for your reference are copies of the First Amendment, the Freedom of Information Act, and Executive Order 11652.

Harold L. Brownman

(DATE)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

(47)

7 November 1973

Secrecy and Security in an Open Society

Secrecy has long been of paramount importance in intelligence work. We are accustomed to the protection of secrecy through the power to classify information. Today, however, I think it is fair to say that we in government and those of us engaged in intelligence work are facing a crisis with the Congress and the American public over the use of secrecy.

I would like to talk to you today about secrecy and the classifying power, suggest some factors that should be taken into account in reaching judgments in this area, and propose some general guidelines as to how we might overcome the crisis and restore confidence in our use of secrecy.

When the U.S. Intelligence Community began--over 25 years ago--it was recognized that secrecy was a critical element in successful intelligence work. As a result an elaborate network of security regulations and policies was established in an attempt to insure that as little information as possible about the organization, operations and product of U.S. intelligence would ever become public. Until recently these precepts largely went unchallenged.

However, times have changed, and the foreign Intelligence Community, which by careful design has been the most secret part of American society, is increasingly besieged on many fronts regarding what many believe to be its excessive secrecy.

The controversy surrounding our security practices, it seems to me, might be broken down into three sets of problems:

1. The constitutional and legal questions.
2. The issues which arise when intelligence meets policy.
3. Problems which come up within the Intelligence

Community itself.

I would like to comment briefly on each of these sets of problems.

In recent years the media and members of Congress have raised many constitutional and legal questions affecting intelligence activities. Should Congress as a whole be provided more of the intelligence product and more knowledge of our operations? To what extent shall an agency of government investigate a prospective employee or be concerned with his activities away from the office? How do our secrecy agreements square with American citizens' freedom of speech under the First Amendment?

In this connection I would like to spend a moment telling you about the Marchetti Case. Victor Marchetti worked for CIA for 14 years before resigning in September 1969. Two years later he wrote a novel entitled The Rope Dancer. In attempting to enhance the sale of this book, Marchetti appeared on many television and radio talk shows and began to reveal items of classified information. In March 1972, Marchetti prepared an article entitled "Twilight of the Spooks" for publication in Esquire magazine. Fortunately, Esquire rejected the article. Then Marchetti drafted an outline of a book about CIA to which he attached the article and sent the package off to six publishers. One publisher notified CIA that the material appeared to be classified.

This suit is currently under review by the courts. The government's position is that Marchetti signed a contract in the form of a secrecy agreement when he entered on duty. The contract was valid, since the consideration provided by the Agency was the salary Marchetti received. Marchetti has been represented by The American Civil Liberties Union. The ACLU alleges that the government is exercising a prior restraint on the publication in violation of Marchetti's first amendment rights.

To date the courts have supported the contract theory and this is the basis for using a uniform secrecy agreement throughout the Intelligence Community. This is where the Marchetti matter now stands. I think you will agree that it is a landmark case in protecting government secrets.

Thus, the constitutional and legal issues are to a large extent in the hands of Congress and the courts. We must always stand ready, however, to comment on proposed new legislation and executive orders which may facilitate, restrict or otherwise affect the way we do business in the future.

The second set of issues that I would like to talk about are those problems that arise over the uses of intelligence by the policy-maker. All of us blanch when Secretary "X" makes a speech based on our latest TOP SECRET report. Leaks to Jack Anderson are even worse. We, above all others, realize the harm that has been done when a valued source of intelligence dries up or a trusted agent suddenly disappears.

In a philosophical sense this problem will always be with us. Intelligence is produced to be used. A report which does not reach

In April 1972 the government filed suit against Marchetti in U.S. District Court in Alexandria. The Court issued a Temporary Restraining Order and finally issued an Injunction in May 1972. Marchetti appealed the Order but the Fourth Circuit affirmed the District Court's action. Marchetti then petitioned the Supreme Court which denied his petition in December 1972.

The Injunction prohibits Marchetti from violating the terms of the secrecy agreement which he signed when he was employed by CIA. This agreement provides that he must submit any writing to the CIA for security review prior to giving it to a publisher.

Recently, Marchetti, in conjunction with John D. Marks, a former State Department employee, prepared a 500-page manuscript entitled The CIA and the Cult of Intelligence. In late August 1973, the manuscript was delivered to CIA for review. In accordance with the opinion of the Fourth Circuit Court, the Agency had thirty days to complete its review. We estimate that 1700 man-hours were expended in this review which included coordination with State, the Department of Defense and the National Security Agency. On 26 September a list with 339 items to be deleted was given to Mr. Marchetti. A meeting with Marchetti and his attorney resulted in the removal of 114 items from the list, not because the items were improperly classified, but because they are considered to be in the public domain. On October 30 the publisher, Alfred Knopf, filed suit in New York City asking the court to order CIA to show the manuscript, including the deletions, to the publisher.

policy-makers and is not acted upon is not intelligence in the full sense. In certain cases it may seem that the benefits to the U.S. derived from reacting publicly to information contained in our reports -- such as in the current Middle East Crisis -- do not outweigh the danger to the sources involved. In the last analysis, however, this is not our decision. It is the policy-maker who has the ultimate responsibility and who must bear the consequences of such disclosures.

Unauthorized leaks are a corollary of the problems that arise when intelligence passes out of our hands. So long as we live in a free society, all of the laws, regulations and investigations in the world will not prevent people from occasionally acting in what they believe to be the higher interest of their particular organization, the nation, or world peace. We can work against such misuse of intelligence in various ways, such as limiting dissemination, but we probably cannot realistically hope to totally eliminate this problem.

The last group of problems are those within our Community. For one thing, security costs money. Every security system, four-drawer safe, and personnel investigation we employ draws resources away from other programs. Ten years ago, when resources were more readily available, "to err on the safe side," was the best policy where security was concerned. Today we must exercise judgment so as to provide adequate security protection, but also be careful, to avoid unnecessary redundancy in our security practices.

I also believe that in the past we have abused the use of the classification authority. For example, several years ago in CIA almost

every piece of paper automatically received a secret stamp. The rationale was that if it was produced by CIA, it had to be "secret."

There is a kind of Gresham's Law -- you remember the one that says that bad money drives good money out of circulation -- which also operates in respect to classification of secrets. In consistently over-classifying our intelligence, there is a serious risk that those matters of intelligence work which need a high classification will not be protected by a level of classification which is abused. Thus we reach out for new formulas for classifying and controlling disseminations.

The use of blanket classification has also resulted in a loss of confidence over our use of secrecy and classification of intelligence products. To meet the current challenge it may pay to do some serious rethinking of the basic assumptions about classification. Instead of starting with the premise that we, our organizations, our operations and our product are all TOP SECRET or SECRET, and then looking for bits and pieces that can be made public or reduced in classification, we may find it advantageous to look at this problem from the other direction. That is, we might assume everything we do or write belongs in the public domain and then carefully and systematically classify information about people, organizations and activities that simply could not continue to function efficiently without the protection given by a security classification.

At a minimum we should all do some thinking about the aspects of our work which do not require the protection provided by security classifications. Perhaps some of our administrative support activities fall

into this category. I would also remind you that the basis for the issuance of Executive Order 11652 of May 1972 was to ensure that the classifying power is used only to protect matters affecting our national security and not to hide matters that are merely politically sensitive.

We should also make up our minds in advance so that when a flap occurs we are prepared to be open and candid, instead of fumbling around and in the end revealing what we should have been prepared to answer at once. I see the willing and candid response as one step in bringing about greater confidence in our use of security.

Closely related is the kind of response we make when some activity goes sour. We should be prepared to do one of two things: either to tell the truth or to keep quiet and take our lumps. The use of legends, or "cover stories" as they are popularly called, has too often unraveled and led to disclosure of the true facts and an erosion of confidence in our credibility.

To restore confidence in our work requires a variety of measures. I have mentioned the proper use of the classifying authority. The Congress, the media and the public must also be reassured about the propriety of intelligence and that we truly make a valuable contribution to the national security.

Another measure is that in the future we must be more open than we have been accustomed to. In connection with my nomination, the Agency was questioned at great length about its operations and procedures. This is covered in the published Committee report. I expect there will be

more open hearings by the Congress about intelligence in the future. This is what the American people expect.

At the same time, we still have a deep responsibility to protect the sources, the methods, and in many cases the substance of what we know in the Intelligence Community. These are things that, if exposed, would give our potential adversaries great advantages which would be dangerous to the security of the United States. This is going to be a tricky operation -- to be responsive to the need for a more open intelligence operation, and at the same time to protect the integrity and the secrecy that is so necessary.

We have an ally in this regard in George Washington who commented that success in intelligence often depends upon secrecy. I think that we can follow the dictates of the Father of our Country. There are things that we are going to have to keep secret, and we are going to have to be very serious about those, but we are not going to expand secrecy to include areas we really don't have to keep secret. In those respects we are going to have to be more responsive to the demands of our Congress and our people for a more open approach.

As we walk the tightrope between secrecy and openness and as we act to increase confidence before the Congress, the Press, and the American public, we must above all use good judgment. We must strive to bring about a harmony and a proper balance between the dictates of security on the one hand, and on the other hand, the responsibility of the government to provide to the public the information it needs to judge the government's conduct in the foreign policy field.